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Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 20 March 2007 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006), and, referring to his note dated 7 February 2007, has the honour to submit the national report of Portugal on the implementation of Security Council resolution 1737 (2006) (see annex).

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Annex to the note verbale dated 20 March 2007 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

National report on the implementation of Security Council resolution 1737 (2006)

Portugal

In accordance with paragraph 19 of Security Council resolution 1737 (2006), and in complement to the report submitted by the European Union Presidency on this matter, Portugal has the honour to inform the Security Council Committee established pursuant to the above-mentioned resolution on the measures adopted at a national level with the view to implementing the sanctions imposed on the Islamic Republic of Iran.

In its conclusions adopted on 22 January 2007 the Council of the EU welcomed the measures in resolution 1737 and called on all countries to implement the measures in full and without delay. The Council agreed that the EU should prevent the export to and import from Iran of the goods on the Nuclear Suppliers Group (NSG) and Missile Technology Control Regime (MTCR) lists; ban transactions with and freeze the assets of individuals and entities covered by the criteria in resolution 1737; and take measures to prevent Iranian nationals from studying proliferation sensitive subjects within the EU.

The EU immediately initiated the preparation of legal instruments implementing the provisions of resolution 1737. On 12 February 2007 the Council politically endorsed a draft Common Position concerning restrictive measures against Iran and on 27 February 2007 Council Common Position 2007/140/CFSP concerning restrictive measures against Iran was adopted.

At the national level, the Portuguese Government, committed to the full implementation of resolution 1737, beyond a complete execution of Council Common Position 2007/140/CFSP, undertook an instrumental inter-agency coordination and the following measures were taken:

1. Resolution 1737 was circulated, along with its respective instructions of implementation, to all governmental departments which are involved in its comprehensive national application, as well as to other national entities considered relevant, such as the banking system.

2. To cope with commercial obligations such as the ones emerging from resolution 1737, Portugal has set forth legislative measures,[1] which implement at a national level the guidelines and the item lists of several export control regimes, such as MTCR, the Wassenaar Arrangement (WA) and others.

3. As to what concerns dual-use goods and technologies, Portugal applies the norms of EC Regulation No. 1334/2000 of 22 June and EC Regulation

[1] Decreto-Lei No. 371/80, of 11 September; Decreto-Lei No. 1/86, of 2 January; Decreto-Lei No. 436/91, of 8 November; Portaria No. 439/94, of 29 June and Decreto-Lei No. 297/98, of 17 December.

No. 394/2006 of 27 February, according to which all transfers of such items are subject to a preliminary licensing procedure.

4. Specifically regarding requests for import, export or transit licences to and from Iran of those goods, technologies and services, which control rests with the Portuguese Ministry of Defence and which are included in operative paragraphs 3, 4, 5, 6 and 17 of resolution 1737 (2006), these would be denied, in accordance with the following legislation:

(i) *Decree-Law 371/80, 11 September*: Definition of rules for the exports of war material and imports of components;

(ii) *Decree-Law 1/86, 2 January*: The Minister of Defence must authorize the transfer of technology or the sale of patents, models, designs and technical assistance, as well as the participation of experts in foreign education and training programmes;

(iii) *Decree-Law 436/91, 8 November*: Definition of rules for the control of imports and exports of goods that may affect the national strategic interests;

(iv) *Decree ("Portaria") 439/94, 29 June*: List of goods and technologies that may affect the national strategic interests, subject to prior licensing and certification;

(v) *Decree-Law 397/98, 17 December*: Access of private companies to the trade of military goods.

In the case of infringement, sanctions are imposed as follows:

(i) *Decree-Law 1/86, 2 January*: The Minister of Defence may revoke an export licence due to the higher national defence interests;

(ii) *Decree-Law 436/91, 8 November*: All those who are responsible for false statements or omit mandatory information from the international export or import certificates will be punished with up to two years in prison; all those who export, temporarily export or re-export goods and technologies that may affect the national strategic interests without the emission of an international export certificate or by means of a certificate obtained through false statements will be punished with a prison sentence from one month up to five years, if there is no higher penalty applicable to the fault by force of other legislation; attempted infringements will be punished;

(iii) *Decree-Law 397/98, 17 December*: Infringement may imply the banning of private companies from further trade of military goods.

5. Regarding the freezing of funds, other financial assets and economic resources of persons and/or entities designated in the annex to resolution 1737, the mentioned resolution was disseminated to the Portuguese financial institutions on 2 January 2007, by the Ministry of Finance, the competent authority for the application of these international sanctions. It is not necessary for the national legislator to pass legislative measures to handle the freezing of funds or other assets belonging to persons or entities referred to in the United Nations lists. According to Law 11/2002 of 16 February 2002 establishing the penal regime applicable to situations of violation of sanctions imposed by Security Council resolutions or European Union Regulations, the funds, financial assets and other economic resources will be frozen as soon as the Committee or the Security Council

designates persons or entities. This includes any action that, direct or indirectly, might permit the placement of funds within reach of any individual or legal entity mentioned in those international legal instruments (articles 1 and 2 of Law 11/2002). Therefore, the financial institutions should freeze funds and economic resources immediately after the competent authorities forward the relevant lists to them. Since the adoption of resolution 1737, the Portuguese authorities have not detected any funds, other financial assets or economic resources of persons and/or entities designated in the annex.

6. Similarly, the Portuguese authorities have no knowledge of any teaching or training activities such as those mentioned in resolution 1737 taking place in Portugal or being organized by Portuguese nationals.

7. The proliferation of WMD by countries of concern has been a priority of the Portuguese Government. In order to maintain permanent, systematic and structured monitoring of the matter at hand a counter proliferation programme was created in 1998 aimed at promoting cooperation and interaction between the various national entities responsible for counter proliferation in our country.

This programme is based on four main objectives:

(i) To support the control of exports and the transfer of technology;

(ii) To detect clandestine procurement networks in our country;

(iii) To control citizens of the risk countries with access to national investigation centres;

(iv) To combat contraband activities and radioactive material.

Portugal is also represented in several organisms, work groups and initiatives at both the national and international level, such as the several groups and regimes of export control and the Proliferation Security Initiative (PSI). Moreover, Portugal is developing an awareness programme involving industries related to the production of sensitive goods and/or dual-use technologies.

8. Other measures of transnational extent, adopted and carried out mainly at a European Union and international level, such as Customs cooperation, information-sharing and intelligence activities, are being put forward to enhance the effectiveness of the sanctions applied to Iran. The Portuguese authorities will remain seized of this matter and will inform the Security Council of any further developments on this issue.